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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 OTMAR WITTINE,

11 Plaintiff,

No. CIV S-03-1676 LKK EFB P

12 vs.

13 F. T. DESCHLER, et al.,

14 Defendants.

FINDINGS AND RECOMMENDATIONS

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16 Plaintiff, a state prisoner, litigates this civil rights action *pro se* and *in forma pauperis*.

17 On June 19, 2006, defendants Ornoski, Ransdell, and Rianda moved to dismiss this  
18 action with respect to them upon the ground plaintiff fails to state a claim upon which relief can  
19 be granted. *See* Fed. R. Civ. P. 12(b)(6). On July 26, 2006, a different magistrate judge  
20 informed plaintiff that failure to file a written opposition or a statement of no opposition may be  
21 deemed a waiver of any opposition to the motion and gave plaintiff 30 days to file an opposition  
22 or statement of non-opposition, warning him that failure to do so could result in dismissal. *See*  
23 Fed. R. Civ. P. 41(b).


24 The 30 days have passed and plaintiff has not filed an opposition or a statement of no  
25 opposition and has not otherwise responded to the July 26, 2006, order.

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1 Accordingly, it is RECOMMENDED that claims against Ornoski, Ransdell and Rianda  
2 be dismissed without prejudice. Fed. R. Civ. P. 41(b).

3 These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days  
5 after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
8 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: September 14, 2006.

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13 EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

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